

THIS IS A CAPITAL CASE
EXECUTION IS IMMINENT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

CHARLES LAVERNE SINGLETON

PETITIONER

VS.

A.L. LOCKE, T, Director,
Arkansas Department of Correction

RESPONDENT

PETITION FOR WRIT OF HABEAS CORPUS
BY A PERSON IN STATE CUSTODY

Comes Petitioner, Charles Laverne Singleton,
through counsel currently serving pro bono publico,
and for his Petition for Writ of Habeas Corpus by a
Person in State Custody states: .

1. Petitioner, Charles Laverne Singleton,
was convicted of capital murder in October, 1979,
in the Circuit Court of Ashley County. He was sentenced
to death by electrocution, and the execution date is
set for June 4, 1982. An Application for Stay is
being filed contemporaneously with this Petition.

2. Jurisdiction of this Court is invoked
pursuant to 28 U.S.C. 2242 and 28 U.S.C. 2254.

3. Petitioner pleaded not guilty to charges
of capital murder and aggravated robbery. On appeal
the Arkansas Supreme Court affirmed the conviction
and death sentence for capital murder but vacated
the conviction and sentence for aggravated robbery on
double jeopardy grounds. Singleton v. State, 274
Ark. 126, 623 S.W. 2d 180 (1981). Certiorari was
denied by the United States Supreme Court.

4. Petitioner then pursued collateral post-conviction state remedies by filing a Petition for Permission to Proceed Pursuant to Rule 37, A. R. Crim. P. This application for an evidentiary hearing was submitted May 25, 1982 and denied June 1, 1982.

5. Petitioner intends to petition the U.S. Supreme Court for a writ of certiorari to review, inter alia, the denial of a state forum to litigate or make an evidentiary record on the issue of ineffective counsel, where Petitioner had been represented by the same appointed counsel on both trial and appeal and where the issue could not be raised before the Rule 37 proceeding, and where there are prima facie indicia in the record of ineffective counsel.

6. Petitioner has raised as grounds on appeal or in his petition for post-conviction relief the following arguments that his rights under the U.S. Constitution have been violated.

7. Petitioner was denied effective assistance of counsel at the voir dire phase of his trial by a) failure of trial counsel to challenge certain veniremen for cause, or to conduct adequate voir dire with regard to a cause challenge (b) wrongly assenting to the exclusion of a potential juror under Witherspoon who, it is submitted, was not excludable for cause (c) failure to adhere to the procedural requisites for making an adequate appellate record for review of voir dire (d) failure to make an adequate appellate record on the issue of racial exclusion of potential jurors and other aspects of jury panel creation and selection and (e) not rehabilitating, for Witherspoon purposes, a number of veniremen excluded by the court for cause. These matters violated Petitioner's rights under the Sixth and Fourteenth Amendments.

8. Petitioner's Sixth and Fourteenth Amendment rights were violated, and he was denied effective assistance of counsel, at the guilt phase of the trial by the propounding, in one fashion or another, inconsistent defenses, in not pursuing additional psychiatric examination of Petitioner, and in otherwise not preparing adequately for trial.

9. Petitioner's Sixth and Fourteenth Amendment rights were also violated by counsel's failure to prepare or present evidence in mitigation in the penalty phase of the trial, despite the availability of the evidence; and by making an improper, inappropriate and wholly inadequate closing argument.

10. The death sentence violates Petitioner's rights of due process under the Fifth and Fourteenth Amendments in that the only aggravating circumstance found to exist was defined arbitrarily, capriciously and vaguely, in violation of Godfrey v. Georgia, 446 U.S. 420 (1980).

11. The Arkansas statutory scheme is void for vagueness and violative of rights of due process and fair trial because of overlapping definitions of capital murder and first degree murder, giving the prosecutor unbridled discretion in charging, and vagueness in the definitions of "extreme indifference to the value of human life", an element of the crime of capital murder, and "pecuniary gain", a statutory aggravating circumstance.

12. The death penalty violates the Eighth Amendment ban on cruel and unusual punishments.

13. The death penalty here is violative of due process in that the jury ignored evidence of mitigating circumstances.

14. Petitioner's arrest and the introduction of certain evidence against him violated his rights under the Fourth and Fourteenth Amendments.

15. Petitioner was denied trial by jury

of a cross-section of the community, in violation of his Fifth, Sixth and Fourteenth Amendment rights in the following manners: the jury was "death qualified" thus excluding a certain class of persons, the Ashley County system for creating a jury panel, the delegation to the sheriff, the chief law enforcement authority of the county, the power and discretion to decide which members of the jury pool to summon to the courthouse, and the de facto exclusion on racial and economic factors of prospective jurors, all of which worked to the prejudice and detriment of Petitioner.

16. Petitioner was denied due process and fair trial by the trial court's failure to exclude for cause certain jurors who should have been and who counsel did move to exclude, including one who advocated the death penalty for all persons convicted of murder.

17. Petitioner's rights of due process, fair trial and confrontation were violated by the admission of purported "dying declarations" of the victim.

18. Those rights were also violated by the admission of photographs of the deceased, despite a stipulation and understanding of counsel that the photographs would not be introduced.

19. Petitioner's right to fair trial and due process were violated by the trial court's refusal to grant a motion for change of venue.

20. The evidence was insufficient to support a conviction and insufficient to demonstrate the underlying offense of robbery.

21. Petitioner's rights of due process, fair trial and effective assistance of counsel are violated where, as here, he is denied an opportunity to litigate in the state courts the issue of ineffectiveness where, as here, he was unable to raise it before and where the record as cited in the Rule 37 petition, makes a prima facie case of ineffectiveness.

22. Petitioner, had he been granted an evidentiary hearing at the trial court level by the Arkansas Supreme Court, could have more completely established the grounds for relief that are present in this case. These grounds are sufficient to warrant vacation of the death penalty, the setting aside of the conviction, or both. An evidentiary hearing is required here in order to permit Petitioner the opportunity to have these issues properly raised, fully briefed and finally adjudicated.

23. Petitioner wishes to be granted leave to amend this Petition at a later date. Petitioner also asks that his counsel, currently serving pro bono publico, be formally appointed by the Court. Finally, the Governor's policy of setting execution dates thirty days from the conclusion of the previous step in the litigation, does not permit enough time to properly prepare a petition in a case of this magnitude.

24. Petitioner was represented at trial and on direct appeal by the Hon. Robert Wellenberger of Monticello, Ark., and on petition for writ of certiorari and Rule 37 petition by Jeffrey M. Rosenzweig of Little Rock.

25. Petitioner has no other sentences to serve after the death penalty is carried out. He will remain incarcerated on Death Row while this matter is pending.

Respectfully submitted,

CHARLES LAVERNE SINGLETON
Petitioner

By: *Jeffrey M. Rosenzweig*

JEFFREY M. ROSENZWEIG
420 Three Hundred Spring Bldg.
Little Rock, Ark. 72201
(501) 372-5247
Counsel for Petitioner, pro
bono publico.

CERTIFICATE OF SERVICE

I, Jeffrey M. Rosenzweig, do hereby certify that I have delivered a copy of the foregoing Petition for Writ of Habeas Corpus to the Hon. Victra Fewell, Assistant Attorney General, Justice Building, Little Rock, Ark. this 1 day of June, 1982.

Jeffrey M. Rosenzweig

JUN 2 REC'D

ATTORNEY GENERAL
OF
ARKANSAS

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JUN 1 1982

By: CARL R. BRENTS, CLERK
DEP. CLERK

CHARLES LAVERNE SINGLETON

PETITIONER

v.

No. PB-C-82-165

A. L. LOCKHART, Director,
Arkansas Department of Correction

RESPONDENT

ORDER GRANTING STAY OF EXECUTION

Upon the basis of the contents of the petition for writ of habeas corpus, the application for stay of execution, the evidence presented at the hearing this date, and the findings and conclusions stated of record,

It is hereby Ordered that the petitioner's application for stay of execution be, and it is hereby, granted.

It is further Ordered that the Clerk of this Court forthwith contact the office of the Governor, the Warden of the Cummins Unit, and the Director of the Arkansas Department of Correction, by telephone or otherwise, to advise them of the Court's entry of this Order.

It is further Ordered that the stay of execution shall continue until the issues raised in the petition for writ of habeas corpus have been adjudicated and determined.

Dated this 1st day of June, 1982.

David Thomas Eide
United States District Judge

RECEIVED

AUG 6 1982

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C.

82-5204

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MAY 24 1982

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Rt. Rev. Dr. Edward Wayland

against

Registry of Deeds, Salem, et al

Civil No.

RECEIVED

JUN 1 1982

OFFICE OF THE CLERK
SUPREME COURT, U.S.

APPELLANT'S MOTION TO PROCEED FORMA PAUPERIS

Comes now the Appellant/Plaintiff, Sovereign Citizen Sovereign Immunity, Rt. Rev. Dr. Edward Wayland, and herein moves this Court to allow him to proceed forma pauperis pursuant to the Common Law/ Public-Wrong; Amendment 1 Right to petition; and Amendments 9 & 10 unenumerated, reserved and inalienable Rights which establish the Right to be heard forma pauperis; and docket for hearing pursuant to Supreme Court Rule 53; and any other statutes, rules, regulations that are relevant.

Rt. Rev. Dr. Edward Wayland *pro se*
forma pauperis
Sovereign Citizen; Preamble. A. 9, 10
Sovereign Immunity; " " " "

RE. REV. EDWARD WAYLAND
P. O. BOX 1008
LOWELL, MASS. 01853

RECEIVED
SUPREME COURT OF THE UNITED STATES
AUG 6 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

COURT OF THE UNITED STATES
WASHINGTON, D.C.

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MAY 24 1982
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Rt. Rev. Dr. Edward Wayland

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SUPREME COURT, U.S.

COMMON LAW AFFIDAVIT OF APPELLANT

I, Rt. Rev. Dr. Edward Wayland, herein affirm, depose and say:

That I am the Appellant in the above-entitled action, and affirm this Affidavit in support of my motion to Proceed Forma Pauperis without being required to prepay costs or give security therefor. I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefor;

I further swear that I am not employed, nor in any business; and that since March 18, 1968 I have received no lawful money as defined by the Constitution of the United States of America.

AFFIRMED AND SUBSCRIBED UNDER PAINS AND PENALTIES OF PERJURY ACCORDING TO THE COMMON LAW (Christian, not former king's self-serving courts), wherein the signature of minister is equal to that of 2-3, or more, and needs no further corroboration (Scripture and, as such is also Theological Judgment, this day of 1982.

St. Rev. Dr. Edward Wayland pro se
forma pauperis
Sovereign Citizen; Preamble. A. 9, 1
Sovereign Immunity; " " "

ST. REV. EDWARD WAYLAND
P. O. BOX 1003
LOWELL, MASS 01852

RECEIVED

JUN 1 1982

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C.

RT. Rev. Dr. Edward Wayland

against

Registry of Deeds, Salem, et al

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CIVIL No. _____

MOTION TO FILE ONE COPY

Comes now the Appellant, Sovereign Citizen Sovereign Immunity, RT. Rev. Dr. Edward Wayland and herein moves the Court to allow him to file one copy of his JURISDICTIONAL STATEMENT (Appeal Brief) pursuant to Common Law; Amendment 1 Right to Petition; and Amendments 9, 10 unenumerated, reserved, and inalienable Rights; and relative to any statutes, rules, regulations that authorize one copy.

RT. Rev. Dr. Edward Wayland *pastor*
pro se
In forma pauperis

Sovereign Citizen; Preamble A. 9, 10
Sovereign Immunity; " " " "

RT. REV. EDWARD WAYLAND
P. O. BOX 1006
LOWELL, MASS. 01853

END OF DOCKET